

2013 DRAFTING REQUEST

Bill

Received:	10/14/2013	Received By:	pkahler
Wanted:	As time permits	Same as LRB:	
For:	Evan Goyke (608) 266-0645	By/Representing:	himself
May Contact:		Drafter:	pkahler
Subject:	Courts - immunity liability Real Estate - foreclosures	Addl. Drafters:	phurley

Extra Copies:

Submit via email: **YES**
 Requester's email: **Rep.Goyke@legis.wisconsin.gov**
 Carbon copy (CC) to: **pam.kahler@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Allow municipality to enter abandoned properties in foreclosure

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 10/15/2013	wjackson 10/21/2013		_____			
/P1	pkahler 10/22/2013		rschluet 10/21/2013	_____	lparisi 10/21/2013		
/1	pkahler 10/28/2013	wjackson 10/22/2013	rschluet 10/23/2013	_____	mbarman 10/23/2013	lparisi 10/23/2013	State S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2		wjackson 11/4/2013	rschluet 11/4/2013	_____	lparisi 11/4/2013	mbarman 11/4/2013	State S&L

FE Sent For:

at
intro

<END>

2013 DRAFTING REQUEST**Bill**

Received: **10/14/2013** Received By: **pkahler**
 Wanted: **As time permits** Same as LRB:
 For: **Evan Goyke (608) 266-0645** By/Representing: **himself**
 May Contact: Drafter: **pkahler**
 Subject: **Courts - immunity liability** Addl. Drafters: **phurley**
Real Estate - foreclosures

Extra Copies:

Submit via email: **YES**
 Requester's email: **Rep.Goyke@legis.wisconsin.gov**
 Carbon copy (CC) to: **pam.kahler@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Allow municipality to enter abandoned properties in foreclosure

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 10/15/2013	wjackson 10/21/2013					
/P1	pkahler 10/22/2013		rschluet 10/21/2013		lparisi 10/21/2013		
/1	phurley 10/22/2013	wjackson 10/22/2013	rschluet 10/23/2013		mbarman 10/23/2013	lparisi 10/23/2013	State S&L

12 WLJ 11/4

11/4/13

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received:	10/14/2013	Received By:	pkahler
Wanted:	As time permits	Same as LRB:	
For:	Evan Goyke (608) 266-0645	By/Representing:	himself
May Contact:		Drafter:	pkahler
Subject:	Courts - immunity liability Real Estate - foreclosures	Addl. Drafters:	phurley

Extra Copies:

Submit via email: **YES**
 Requester's email: **Rep.Goyke@legis.wisconsin.gov**
 Carbon copy (CC) to: **pam.kahler@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Allow municipality to enter abandoned properties in foreclosure

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 10/15/2013	wjackson 10/21/2013		_____			
/P1	pkahler 10/22/2013		rschluet 10/21/2013	_____	lparisi 10/21/2013		
/1	phurley 10/22/2013	wjackson 10/22/2013	rschluet 10/23/2013	_____	mbarman 10/23/2013		State S&L

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received:	10/14/2013	Received By:	pkahler
Wanted:	As time permits	Same as LRB:	
For:	Evan Goyke (608) 266-0645	By/Representing:	himself
May Contact:		Drafter:	pkahler
Subject:	Courts - immunity liability Real Estate - foreclosures	Addl. Drafters:	phurley

Extra Copies:

Submit via email: **YES**
 Requester's email: **Rep.Goyke@legis.wisconsin.gov**
 Carbon copy (CC) to: **pam.kahler@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Allow municipality to enter abandoned properties in foreclosure

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 10/15/2013	wjackson 10/21/2013					
/P1			rschuet 10/21/2013		lparisi 10/21/2013		

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received:	10/14/2013	Received By:	pkahler
Wanted:	As time permits	Same as LRB:	
For:	Evan Goyke (608) 266-0645	By/Representing:	himself
May Contact:		Drafter:	pkahler
Subject:	Courts - immunity liability Real Estate - foreclosures	Addl. Drafters:	phurley
		Extra Copies:	

Submit via email: **YES**
 Requester's email: **Rep.Goyke@legis.wisconsin.gov**
 Carbon copy (CC) to: **pam.kahler@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given


Topic:

Allow municipality to enter abandoned properties in foreclosure

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler	/pl wlj 10/21		_____	_____		

FE Sent For:

<END>

Kahler, Pam

From: Rep. Goyke
Sent: Thursday, October 10, 2013 11:54 AM
To: Kahler, Pam
Subject: Rep. Goyke Draft Request

Pam-

I hope you are doing well. I am working with the City of Milwaukee on my foreclosure package and have one other bill draft that I wanted to add to the package. I am working on getting more specifics from the City but the crux of it is...

Current law does not allow municipalities or lending institutions the authority to enter into a property that is subject to a foreclosure action. This often leads to deterioration of the property, which greatly decreases the property's resale value and places additional burdens on local property tax payers.

This bill seeks to extend authority to a municipality or lending institution to enter the foreclosed property and address any possible problems within the property. To do this, this bill seeks to provide an ownership interest in the property subject to foreclosure action to the municipality or lending institution under Chapter 846. The ownership interest would simultaneously create a duty to maintain the property in a manner consistent with local ordinances.

This bill also seeks to extend civil immunity to agents of either the municipality or lending institution engaged in the rehabilitation or repair of the property, so far as the agent is acting in his or her official capacity to address a ordinance or code violation of the property.

I hope my idea makes sense. Please let me know if you need anything more from me at this time. All the best.

- Evan

10-10

Rep Goyke by phone

modifications to original drafting instructions

- ① allow municipal employee to enter property in foreclosure to ensure compliance with building code & ordinances - issue work orders, etc.

if

property is abandoned - use criteria in
s. 846.102

- ② require clerk of court to provide notice when a foreclosure action is commenced to municipality and law enforcement but include only street address - not individual's name

- ③ allow plaintiff to enter property if judge finds it is abandoned under s. 846.102
(may need to take some action to protect or preserve prop)

- ④ give civil immunity to person who enters as allowed in the bill



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3431/

PJK/.....

+PJH

PI
Wly
✓ in not run

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

(in 10-15)
Monday by end of day

gen cat

1 **AN ACT**; relating to: entry on property in foreclosure.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2
3

SECTION 1. ~~846.03~~^{846.085} of the statutes is created to read:

~~846.03~~^{846.085} **Entry on property in foreclosure.** (1) ^IDEFINITIONS. In this section:

- 4 (a) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).
5 (b) "Municipality" means a city, village, or town.
6 (c) "Property" means mortgaged premises that are the subject of a foreclosure
7 action.
8 (d) "Representative of the municipality" means a person who is employed by,
9 an agent of, or under contract with a municipality.

1 (2) ENTRY BY MUNICIPALITY. At any time after the commencement of a mortgage
2 foreclosure action, a representative of the municipality in which the property is
3 located may go on the property and enter any buildings on the property, with such
4 reasonable force as appears necessary, if all of the following apply:

5 (a) The municipality has determined that the property is abandoned or that it
6 is likely that the property ~~has been~~^{is} abandoned. The municipality may use any
7 reasonable criteria to determine whether the property is abandoned, including the
8 criteria under s. 846.102 (2) (a) to (f).

9 (b) The municipality has determined that entry on the property or in buildings
10 on the property is necessary to inspect the property for building code or other
11 ordinance violations or to preserve or protect the property or public health and safety.

12 (3) ENTRY BY PLAINTIFF. In a mort^gage foreclosure action, if the court finds under
13 s. 846.102 that the property has been abandoned, at any time after judgment for the
14 plaintiff has been entered, the plaintiff, or an employee or agent of or contractor with
15 the plaintiff, may go on the property and enter any buildings on the property, with
16 such reasonable force as appears necessary, to inspect the property and take any
17 action necessary to preserve or protect the property.

18 (4) NOTICE FROM CLERK OF COURT. (a) At the commencement of a mortgage
19 foreclosure action, the clerk of circuit court^{e for} of the county in which the action is filed
20 shall provide notice of the commencement of the action to the municipality in which
21 the property is located and to the law enforcement agency that provides primary law
22 enforcement services to the municipality in which the property is located.

23 (b) The clerk of circuit court and the municipality and law enforcement agency
24 may agree on the form of the notice and the method of delivering the notice, or the

1 clerk may provide the notice in the form and manner most convenient for the clerk,
2 which may include delivery by electronic mail.

3 (c) The notice provided under this subsection shall include only the street
4 address or location of the property and may not include the name of the owner of
5 record of the property or the name of the defendant in the action.

****NOTE: I do not know how CCAP works. However, is it possible that the
municipality or law enforcement agency might need to be able to follow the status of the
foreclosure action on CCAP and would need more information than just the address of the
property to be able to do so?

6 **SECTION 2. Initial applicability.**

7 (1) This act first applies to foreclosure actions that are commenced on the
8 effective date of this subsection.

9 (END)

Insert
3.4

Insert
3.5

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3431/ins
PJK:.....

P1
r n not m m

INSERT 3.4

(B) 4

e 5

- 1 (4) IMMUNITY FROM LIABILITY. A person authorized under sub. (2) or (3) to go on
2 a property and enter buildings on a property is immune from civil liability for acts
3 or omissions related to carrying out the powers and responsibilities under sub. (2)
4 or (3), whichever is applicable, unless the person asserting liability proves that the
5 act or omission constitutes willful misconduct.

(END OF INSERT 3.4)

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3431/ins

PK:.....

PJH

r must run

1 INSERT 3.5:

2 **SECTION 1.** 943.13 (4m) (e) of the statutes is created to read:

3 943.13 (4m) (e) A person entering or remaining on the land as authorized
4 under s. 846.085 (2) or (3).

5 **SECTION 2.** 943.14 of the statutes is amended to read:

6 **943.14 Criminal trespass to dwellings.** Whoever intentionally enters the
7 dwelling of another without the consent of some person lawfully upon the premises,
8 under circumstances tending to create or provoke a breach of the peace, is guilty of
9 a Class A misdemeanor. This section does not apply to a person entering or
10 remaining on the land as authorized under s. 846.085 (2) or (3).

History: 1977 c. 173.

11 **SECTION 3.** 943.15 (1r) of the statutes is created to read:

12 943.15 (1r) This section does not apply to a person entering or remaining on
13 the land as authorized under s. 846.085 (2) or (3).

Kahler, Pam

From: Rep.Goyke
Sent: Tuesday, October 22, 2013 12:37 PM
To: Kahler, Pam; Hurley, Peggy
Subject: FW: Draft review: LRB -3431/P1 Topic: Allow municipality to enter abandoned properties in foreclosure
Attachments: 13-3431/P1.pdf

Pam and Peggy-

Thank you for this draft! This looks GREAT. Do you know when the analysis will be completed? I am hoping to put some type of rush on it so I can introduce it with my other bills. Thank you again for all of your help and expertise! I greatly appreciate it.

- Evan

From: LRB.Legal
Sent: Monday, October 21, 2013 3:31 PM
To: Rep.Goyke
Subject: Draft review: LRB -3431/P1 Topic: Allow municipality to enter abandoned properties in foreclosure

Following is the PDF version of draft LRB -3431/P1.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3431/P1
PJK&PJH.wlj:rs

✓ m is p m

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~ stays

by Wednesday
afternoon, please

Regen

- 1 AN ACT to amend 943.14; and to create 846.085, 943.13 (4m) (e) and 943.15 (1r)
2 of the statutes; relating to: entry on property in foreclosure.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 SECTION 1. 846.085 of the statutes is created to read:
4 **846.085 Entry on property in foreclosure.** (1) DEFINITIONS. In this section:
5 (a) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).
6 (b) "Municipality" means a city, village, or town.
7 (c) "Property" means mortgaged premises that are the subject of a foreclosure
8 action.
9 (d) "Representative of the municipality" means a person who is employed by,
10 an agent of, or under contract with a municipality.

Susant A-PJK

SECTION 1

1 **(2) ENTRY BY MUNICIPALITY.** At any time after the commencement of a mortgage
2 foreclosure action, a representative of the municipality in which the property is
3 located may go on the property and enter any buildings on the property, with such
4 reasonable force as appears necessary, if all of the following apply:

5 (a) The municipality has determined that the property is abandoned or that it
6 is likely that the property is abandoned. The municipality may use any reasonable
7 criteria to determine whether the property is abandoned, including the criteria
8 under s. 846.102 (2) (a) to (f).

9 (b) The municipality has determined that entry on the property or in buildings
10 on the property is necessary to inspect the property for building code or other
11 ordinance violations or to preserve or protect the property or public health and safety.

12 **(3) ENTRY BY PLAINTIFF.** In a mortgage foreclosure action, if the court finds under
13 s. 846.102 that the property has been abandoned, at any time after judgment for the
14 plaintiff has been entered, the plaintiff, or an employee or agent of or contractor with
15 the plaintiff, may go on the property and enter any buildings on the property, with
16 such reasonable force as appears necessary, to inspect the property and take any
17 action necessary to preserve or protect the property.

18 **(4) NOTICE FROM CLERK OF COURT.** (a) At the commencement of a mortgage
19 foreclosure action, the clerk of circuit court for the county in which the action is filed
20 shall provide notice of the commencement of the action to the municipality in which
21 the property is located and to the law enforcement agency that provides primary law
22 enforcement services to the municipality in which the property is located.

23 (b) The clerk of circuit court and the municipality and law enforcement agency
24 may agree on the form of the notice and the method of delivering the notice, or the

1 clerk may provide the notice in the form and manner most convenient for the clerk,
2 which may include delivery by electronic mail.

3 (c) The notice provided under this subsection shall include only the street
4 address or location of the property and may not include the name of the owner of
5 record of the property or the name of the defendant in the action.

****NOTE: I do not know how CCAP works. However, is it possible that the municipality or law enforcement agency might need to be able to follow the status of the foreclosure action on CCAP and would need more information than just the address of the property to be able to do so.

6 (5) IMMUNITY FROM LIABILITY. A person authorized under sub. (2) or (3) to go on
7 a property and enter buildings on a property is immune from civil liability for acts
8 or omissions related to carrying out the powers and responsibilities under sub. (2)
9 or (3), whichever is applicable, unless the person asserting liability proves that the
10 act or omission constitutes willful misconduct.

11 SECTION 2. 943.13 (4m) (e) of the statutes is created to read:

12 943.13 (4m) (e) A person entering or remaining on the land as authorized under
13 s. 846.085 (2) or (3).

14 SECTION 3. 943.14 of the statutes is amended to read:

15 **943.14 Criminal trespass to dwellings.** Whoever intentionally enters the
16 dwelling of another without the consent of some person lawfully upon the premises,
17 under circumstances tending to create or provoke a breach of the peace, is guilty of
18 a Class A misdemeanor. This section does not apply to a person entering or
19 remaining on the land as authorized under s. 846.085 (2) or (3).

20 SECTION 4. 943.15 (1r) of the statutes is created to read:

21 943.15 (1r) This section does not apply to a person entering or remaining on
22 the land as authorized under s. 846.085 (2) or (3).

23 SECTION 5. Initial applicability.

SECTION 5

1 (1) This act first applies to foreclosure actions that are commenced on the
2 effective date of this subsection.

3 (END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3431/lins

PJK:.....

h m is run

INSERT A-PJK

Under current law
STET
If a mortgagor (person who takes out a mortgage loan to, for example, buy property) defaults in the repayment of the loan, the mortgagee (person or entity *who* made the loan, such as a bank) may commence a mortgage foreclosure action, the procedure for which is provided in current law. If the mortgagor owes the money, the court will enter judgment for the mortgagee, who is the plaintiff in the action. Before the property may be sold at sheriff's sale, a specified period *of time*, known as the redemption period, must elapse during which the mortgagor may pay the amount owed on the loan. If the amount is not paid by the end of the redemption period, the property will be sold at sheriff's sale and the amount realized on the sale of the property will be paid against the amount owed on the loan. The length of the redemption period, which is usually three months, six months, or a year, depends on the type of property and whether the mortgagee is seeking a deficiency judgment for any amount of the default on the loan that is not realized on the sale of the property. If the court determines that the property has been abandoned, the redemption period is only five weeks long. *STET*

Under this bill, after a mortgage foreclosure action is commenced, an employee or agent of, or contractor with, the city, village, or town (municipality) in which the property in foreclosure is located may go on the property and enter into any buildings on the property, using such reasonable force as is necessary. This may be done, however, only if the municipality has determined that it is likely that the property is abandoned, using any reasonable criteria, including the criteria that a court uses in a foreclosure action to determine that property has been abandoned, and that it is necessary to inspect the property for building code or other violations or to preserve or protect the property or the public health and safety. The bill also provides that, in a mortgage foreclosure action in which the court has determined that the property has been abandoned, after judgment is entered for the plaintiff in the action, the plaintiff may go on the property and enter into any buildings on the property, using such reasonable force as is necessary, to inspect the property and take any action necessary to preserve or protect the property. The bill provides immunity from civil liability to any employee or agent of, or contractor with, a municipality in which a property in foreclosure is located, and to a plaintiff in a foreclosure action, for acts or omissions related to going on, and inspecting, the property and taking any actions authorized under the bill.

The bill requires the clerk of circuit court for the county in which a mortgage foreclosure action is commenced to provide notice of the commencement of the action to the municipality in which the property in foreclosure is located and to the law enforcement agency that provides primary law enforcement services to that municipality. The notice may include only the address of the property and not the name of the property owner or defendant in the foreclosure action.

(END OF INSERT A-PJK)

and criminal
FE-SL

Parisi, Lori

From: Knocke, Ryan
Sent: Wednesday, October 23, 2013 9:22 AM
To: LRB.Legal
Subject: Draft Review: LRB -3431/1 Topic: Allow municipality to enter abandoned properties in foreclosure

Please Jacket LRB -3431/1 for the ASSEMBLY.

Kahler, Pam

From: Rep. Goyke
Sent: Friday, October 25, 2013 1:37 PM
To: Kahler, Pam
Subject: Small Drafting Revisions - Rep. Goyke

Pam-

I hope you are having a good Friday. Yesterday afternoon I took the bill jackets of the 5 housing bills you have worked on for me and my staff member Ryan to the City of Milwaukee. They raised some good points and I have a few slight/small revisions that I wanted to make before introduction. I have left the bill jackets with Ryan and he is sending them over to you this afternoon.

- STK 1.) LRB-2368/2 – HOME GR/OWN Bill - In the analysis it states the amount as \$2 million, but in the text of the bill it still lists it as \$5 million. Could this be changed so they both have the amount of \$2 million?
- PJK 2.) LRB-3431/1 – Entry Into Foreclosed Property Bill – Please remove the part of sub-section b under Section 2 that states the municipality may enter for code or ordinance violations. I am concerned that the City could enter and then write up many code violations on somebody already in the foreclosure process. My intent is for the city and others to only be able to shut the water off, power etc. If you have suggestions on wording please let me know.
- MDK? { - Also, at the beginning of section 2 where it begins to state the entry of municipality, please also add language to include a utility company, both public and private. My intent here is to have permission as well to allow a worker for a utility company like WE Energies to go in and turn the power off if necessary, in addition to municipal staff.
- ✓ - Also, under Section 4, Notice from Clerk of Court, please include that they must also include the name of plaintiff and address of plaintiff as well. My intent here is for the municipality to know which company or lending institution they are working with and who could come to own the property should the foreclosure action be completed.
- PJK 3.) LRB-2774/1 – Security Lighting Bill - I wanted to ensure that someone who contracts to install the lighting and their workers are not civilly or criminally guilty of trespassing. I see section 5 in the draft grants immunity from liability but does not mention trespassing as the previous bill draft above does. Could this language also be inserted here to ensure they would not be in violation of trespass laws?

Thank you for making these last minute small changes. I know they may seem picky, but I felt these were reasonable changes to make. Please let me know if you have any questions!

- Evan

Kahler, Pam

From: Kunkel, Mark
Sent: Monday, October 28, 2013 11:04 AM
To: Kahler, Pam
Cc: Mueller, Eric
Subject: RE: Small Drafting Revisions - Rep. Goyke

Pam,

If you are only concerned about water, electric, or natural gas service, you could refer to a public utility, as defined in s. 196.01 (5), or a cooperative association organized under ch. 185 that provides water, electric, or natural gas service to the property. In the foregoing, "public utility" would capture private entities, such as MG&E, as well as municipal utilities. The reference to cooperative associations is necessary because they are not regulated by the PSC as public utilities.

If you are also concerned about telephone or cable tv service, then it gets a bit more complicated. Some telephone service is provided by entities that are considered "telecommunications utilities." The reference to public utility would capture them, as s. 196.01 (5) defines "public utility" to include "telecommunications utility." However, a lot of people obtain telephone service from entities that are not regulated as telecommunications utilities. As for cable tv, it is not considered to be a telecommunications service. Instead, it is a "video service," which is defined to capture traditional cable tv systems, as well as new technologies like AT&T's U-verse.

Let me know how you want to proceed.

--Mark

From: Kahler, Pam
Sent: Monday, October 28, 2013 10:11 AM
To: Kunkel, Mark
Subject: FW: Small Drafting Revisions - Rep. Goyke

Hi, Mark:

Could you please take a look at the instruction below that starts with "Also" under number 2? I need proper language for "a utility company, both public and private." Thanks!

Pam

From: Rep.Goyke
Sent: Friday, October 25, 2013 1:37 PM
To: Kahler, Pam
Subject: Small Drafting Revisions - Rep. Goyke

Pam-

I hope you are having a good Friday. Yesterday afternoon I took the bill jackets of the 5 housing bills you have worked on for me and my staff member Ryan to the City of Milwaukee. They raised some good points and I have a few slight/small revisions that I wanted to make before introduction. I have left the bill jackets with Ryan and he is sending them over to you this afternoon.

- 1.) LRB-2368/2 – HOME GR/OWN Bill - In the analysis it states the amount as \$2 million, but in the text of the bill it still lists it as \$5 million. Could this be changed so they both have the amount of \$2 million?
- 2.) LRB-3431/1 – Entry Into Foreclosed Property Bill – Please remove the part of sub-section b under Section 2 that states the municipality may enter for code or ordinance violations. I am concerned that the City could enter and then write up many code violations on somebody already in the foreclosure process. My intent is for the city and others to only be able to shut the water off, power etc. If you have suggestions on wording please let me know.
 - Also, at the beginning of section 2 where it begins to state the entry of municipality, please also add language to include a utility company, both public and private. My intent here is to have permission as well to allow a worker for a utility company like WE Energies to go in and turn the power off if necessary, in addition to municipal staff.
 - Also, under Section 4, Notice from Clerk of Court, please include that they must also include the name of plaintiff and address of plaintiff as well. My intent here is for the municipality to know which company or lending institution they are working with and who could come to own the property should the foreclosure action be completed.
- 3.) LRB-2774/1 – Security Lighting Bill - I wanted to ensure that someone who contracts to install the lighting and their workers are not civilly or criminally guilty of trespassing. I see section 5 in the draft grants immunity from liability but does not mention trespassing as the previous bill draft above does. Could this language also be inserted here to ensure they would not be in violation of trespass laws?

Thank you for making these last minute small changes. I know they may seem picky, but I felt these were reasonable changes to make. Please let me know if you have any questions!

- Evan



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3431/
PJK&PJH:wlj

2
stays
r m is n

2013 BILL

D-note
(in 10-28)
SOON
Monday

Regen

- 1 AN ACT *to amend* 943.14; and *to create* 846.085, 943.13 (4m) (e) and 943.15 (1r)
- 2 of the statutes; **relating to:** entry on property in foreclosure.

Analysis by the Legislative Reference Bureau

If a mortgagor (person who takes out a mortgage loan to, for example, buy property) defaults in the repayment of the loan, the mortgagee (person or entity that made the loan, such as a bank) may commence a mortgage foreclosure action, the procedure for which is provided in current law. If the mortgagor owes the money, the court will enter judgment for the mortgagee, who is the plaintiff in the action. Before the property may be sold at sheriff's sale, a specified period of time, known as the redemption period, must elapse during which the mortgagor may pay the amount owed on the loan. If the amount is not paid by the end of the redemption period, the property will be sold at sheriff's sale and the amount realized on the sale of the property will be paid against the amount owed on the loan. The length of the redemption period, which is usually three months, six months, or a year, depends on the type of property and whether the mortgagee is seeking a deficiency judgment for any amount of the default on the loan that is not realized on the sale of the property. If the court determines that the property has been abandoned, the redemption period is only five weeks long.

Under this bill, after a mortgage foreclosure action is commenced, an employee or agent of, or contractor with, the city, village, or town (municipality) in which the property in foreclosure is located, may go on the property and enter into any buildings on the property, using such reasonable force as is necessary. This may be done, however, only if the municipality has determined that it is likely that the property

Or a utility company providing water, electric, or natural gas service to the property

and take any action necessary to preserve or protect the property or public health and safety

BILL

is abandoned, using any reasonable criteria, including the criteria that a court uses in a foreclosure action to determine that property has been abandoned, and that it is necessary to inspect the property for building code or other violations or to preserve or protect the property or the public health and safety. The bill also provides that, in a mortgage foreclosure action in which the court has determined that the property has been abandoned, after judgment is entered for the plaintiff in the action, the plaintiff may go on the property and enter into any buildings on the property, using such reasonable force as is necessary, to inspect the property and take any action necessary to preserve or protect the property. The bill provides immunity from civil and criminal liability to any employee or agent of, or contractor with, a municipality in which a property in foreclosure is located, and to a plaintiff in a foreclosure action, for acts or omissions related to going on, and inspecting, the property and taking any actions authorized under the bill.

The bill requires the clerk of circuit court for the county in which a mortgage foreclosure action is commenced to provide notice of the commencement of the action to the municipality in which the property in foreclosure is located and to the law enforcement agency that provides primary law enforcement services to that municipality. The notice ~~may~~ ^{must} include ^{only} the address of the property and ^{not} the name of the property owner or defendant in the foreclosure action.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 846.085 of the statutes is created to read:

846.085 Entry on property in foreclosure. (1) DEFINITIONS. In this section:

(a) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).

(b) "Municipality" means a city, village, or town.

(c) "Property" means mortgaged premises that are the subject of a foreclosure action.

(d) "Representative of the municipality" means a person who is employed by, an agent of, or under contract with a municipality.

(2) ENTRY BY MUNICIPALITY. At any time after the commencement of a mortgage foreclosure action, a representative of the municipality in which the property is

Insert 2-6

BILL

or a representative of a utility
1 located may go on the property and enter any buildings on the property, with such
2 reasonable force as appears necessary, if all of the following apply: *using*
Insert 3-2

3 (a) The municipality has determined that the property is abandoned or that it
4 is likely that the property is abandoned. The municipality may use any reasonable
5 criteria to determine whether the property is abandoned, including the criteria
6 under s. 846.102 (2) (a) to (f).

7 (b) The municipality has determined that entry on the property or in buildings
8 on the property is necessary to inspect the property for building code or other
9 ordinance violations or to preserve or protect the property or public health and safety.

10 (3) ENTRY BY PLAINTIFF. In a mortgage foreclosure action, if the court finds under
11 s. 846.102 that the property has been abandoned, at any time after judgment for the
12 plaintiff has been entered, the plaintiff, or an employee or agent of or contractor with
13 the plaintiff, may go on the property and enter any buildings on the property, with
14 such reasonable force as appears necessary, to inspect the property and take any
15 action necessary to preserve or protect the property. *Insert 3-1*

16 (4) NOTICE FROM CLERK OF COURT. (a) At the commencement of a mortgage
17 foreclosure action, the clerk of circuit court for the county in which the action is filed
18 shall provide notice of the commencement of the action to the municipality in which
19 the property is located and to the law enforcement agency that provides primary law
20 enforcement services to the municipality in which the property is located.

21 (b) The clerk of circuit court and the municipality and law enforcement agency
22 may agree on the form of the notice and the method of delivering the notice, or the
23 clerk may provide the notice in the form and manner most convenient for the clerk,
24 which may include delivery by electronic mail.

BILL

SECTION 1

*the name and address of
the plaintiff in the action. The notice*

1 (c) The notice provided under this subsection shall include only the street
2 address or location of the property and may not include the name of the owner of
3 record of the property or the name of the defendant in the action.

4 (5) IMMUNITY FROM LIABILITY. A person authorized under sub. (2) or (3) to go on
5 a property and enter buildings on a property is immune from civil liability for acts
6 or omissions related to carrying out the powers and responsibilities under sub. (2)
7 or (3), whichever is applicable, unless the person asserting liability proves that the
8 act or omission constitutes willful misconduct.

9 SECTION 2. 943.13 (4m) (e) of the statutes is created to read:

10 943.13 (4m) (e) A person entering or remaining on the land as authorized under
11 s. 846.085 (2) or (3).

12 SECTION 3. 943.14 of the statutes is amended to read:

13 943.14 Criminal trespass to dwellings. Whoever intentionally enters the
14 dwelling of another without the consent of some person lawfully upon the premises,
15 under circumstances tending to create or provoke a breach of the peace, is guilty of
16 a Class A misdemeanor. This section does not apply to a person entering or
17 remaining on the land as authorized under s. 846.085 (2) or (3).

18 SECTION 4. 943.15 (1r) of the statutes is created to read:

19 943.15 (1r) This section does not apply to a person entering or remaining on
20 the land as authorized under s. 846.085 (2) or (3).

21 SECTION 5. Initial applicability.

22 (1) This act first applies to foreclosure actions that are commenced on the
23 effective date of this subsection.

24 (END)

[Signature]

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3431/2ins
PJK:.....

INSERT 2-6

1 ⁶⁴ (d) "Representative of a utility" means a person who is employed by, an agent
2 of, or under contract with a public utility, as defined in s. 196.01 (5), or a cooperative
3 association organized under ch. 185, that provides water, electric, or natural gas
4 service to the property.

(END OF INSERT 2-6)

INSERT 3-2

5 ^{not} and take any action ⁹ determined necessary to preserve or protect the property
6 or public health and safety,

(END OF INSERT 3-2)

INSERT 3-9

7 ^{not} or to inspect the property to determine if any action is necessary to preserve or
8 protect the property or public health and safety

(END OF INSERT 3-9)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3431/2dn

PJK:.....

rm is run
Wly

Date

Representative Goyke:

I consulted with Mark Kunkel on how to properly refer to a utility company. According to Mark, the definition used in the draft would apply to private entities, such as MG&E, as well as municipal utilities, and the reference to cooperative associations is necessary because they are not regulated by the PSC as public utilities. This definition does not include telephone or cable tv service, so if you want them included, let me know and I can modify the definition.

all

any

however,

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3431/2dn
PJK:wlj:rs

November 4, 2013

Representative Goyke:

I consulted with Mark Kunkel on how to properly refer to a utility company. According to Mark, the definition used in the draft would apply to private entities, such as MG&E, as well as municipal utilities, and the reference to cooperative associations is necessary because they are not regulated by the PSC as public utilities. This definition does not include all telephone or any cable TV service, however, so if you want them included, let me know and I can modify the definition.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov